

### Judge Robb, cont.

2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association's Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the Indiana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer

Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA

Committee that accredits law schools and Chaired the 2010 ABA's Appellate Judges Council - Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Chief Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a Lieutenant on active duty in the United States Navy.

### Judge Crone, cont.

County Coalition Against Drugs.

As Circuit Court judge, he also initiated the first Spanish-speaking program for public defenders in St. Joseph County.

Judge Crone was retained on the Court by election in 2006. He is married and has three daughters – a practicing attorney, an anesthesiologist and a doctor of psychology.

### Judge Shepard, cont.

chair with former Governor Joe Kernan of the Indiana Commission on Local Government Reform, and has taught periodically at the law schools of Indiana University, New York University and Yale.

He is married and has one daughter.

## COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE

DEPAUW UNIVERSITY

### *J.K. v. State of Indiana*

#### CRIMINAL LAW ISSUE:

- Did police violate Appellant's Fourth Amendment rights by entering his yard without a warrant and by entering and searching his home without a warrant?

#### ORAL ARGUMENT:

Friday, March 7, 2014  
10:20 a.m.

#### APPEAL FROM:

Pulaski Circuit Court  
The Honorable  
Michael A. Shurn, Judge

### Synopsis: *Case No. 66A03-1306-JS-220*

### Attorneys for the Parties

#### For the Appellant

**Jeffrey Douglas Stanton** was born and raised in Martinsville and now resides in Royal Center, with his legal practice located in Logansport. Mr. Stanton graduated from Olivet Nazarene University in 1988 where he majored in History, Political Science and Sociology. In 1991 he graduated from Indiana University/Indianapolis School of Law. Mr. Stanton was also admitted to the Indiana bar in 1991. He is licensed to practice in the State of Indiana and the Northern and Southern Federal District Courts. He is engaged in a general civil and criminal trial practice, having tried several jury trials.

He has 2 children. His son is a freshman at Franklin College, where he plays varsity football. His daughter is a sophomore at Pioneer High School. She is a level 10 gymnast, competing nationally.

#### For the Appellee

**Andrew Falk** joined the Office of the Attorney General in June 2010 as a Deputy Attorney General in the Criminal Appeals Section. Prior to the OAG, he spent five years in private practice with the Indianapolis law firm of Kroger, Gardis & Regas, LLP, where he practiced in the areas of business, construction, and environmental litigation before both trial and appellate courts. Fascinated by green (sustainable) design and construction, Falk was one of the first attorneys in Indiana to obtain a LEED-AP (Leadership in Energy and Environmental Design Accredited Professional) certification. One of his dreams is to help design and build a LEED-certified home.

During law school, Falk served on the Indiana Law Review. His note, An Unlikely Champion: Senator Lieberman's Contribution to the Discussion of Faith in the Public Square, was published in the Holy Cross Journal of Law and Public Policy (2001).

Following law school, Falk served as Judicial Clerk to the Honorable Kenneth L. Ryskamp of the U.S. District Court, Southern District of Florida, and as Law Clerk to the Honorable Brent E. Dickson of the Indiana Supreme Court.

On Dec. 22, 2011, the Pulaski County Sheriff's Department received a complaint that juveniles were making noise and pushing a shopping cart in a residential neighborhood.

Three police officers arrived at J.K.'s residence shortly after 1 a.m. and noticed an Alco shopping cart sitting in the back of a pickup truck parked in J.K.'s driveway.

One officer approached the front door and knocked, while the other two officers went around each side of the residence and into the back yard to guard against the potential of a fleeing suspect.

While in the back yard, one officer saw empty alcohol containers in the house through a back window. The containers were removed from sight shortly after.

The officer at the front entrance was able to see people peeking through the blinds, but no occupant would answer the door.

The officers then called a tow truck to tow the pickup that contained the shopping cart. The officers continued to knock on the front door and yell inside that the pickup would be towed.

The tow truck arrived at the residence at 2:04 a.m. At that time, 17-year-old T.T., who owned the pickup truck, opened the front door. T.T. had alcohol on his breath, and the officers asked him to retrieve the owner of the residence.

J.K., also 17, came to the door. J.K. handed the officers a phone and allowed them to speak with his mother, who would be home in one hour. The officers then entered the resi-

dence without a warrant and before J.K.'s mother arrived home.

The officers searched the residence and found additional evidence of underage drinking. Other people found in the residence were all under the age of 18, and several of them had alcohol on their breath.

The State filed a delinquency petition, alleging J.K. committed illegal possession of alcohol, illegal consumption of alcohol, and aiding illegal consumption of alcohol, all Class C misdemeanors.

J.K. filed a motion to suppress, arguing the search violated his Fourth Amendment rights.

The trial court denied his motion, concluding the officers' conduct was reasonable and the warrantless entry

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## Synopsis, cont.

was necessary to protect the safety of juveniles and prevent the destruction of evidence.

On appeal, J.K. argues his Fourth Amendment rights were violated in multiple ways.

First, J.K. argues the officers' warrantless entry into his yard (or "curtilage") was an unconstitutional search. J.K. asserts that the areas encroached on by the two officers are sufficiently associated with the home that they are part of the home for Fourth Amendment purposes.

The State argues that the curtilage entry is allowed under the "exigent circumstances" exception to the warrant requirement. Specifically, the State asserts that the officers' ability to guard against potential fleeing suspects fits within that exception.

Second, J.K. takes issue with the officers' act of standing at his front door and knocking for approximately one hour without answer from an occupant. J.K. contends that this conduct exceeded the officers implied invitation to "knock and talk" at a person's residence. J.K. asserts that an unduly lengthy knock and talk is unconstitutional, and evidence obtained afterward is tainted and cannot be used against J.K.

Finally, the parties disagree as to whether the warrantless entry into J.K.'s home was unconstitutional. J.K. relies on the concept that a warrantless entry into a person's home is presumptively unconstitutional.

The State maintains that the residential entry was justified by exigent circumstances. The exigent circumstances argued by the State include the need to prevent the destruction of evidence and the need to ensure the safety of unsupervised juveniles who may have been drinking inside the residence.



## Indiana 1891: Every docket tells a story

*Indiana Appellate Court Reports, Vols. 1, 2, and 3*, include the complete written opinions of several hundred cases decided by the court in its first two terms. Naturally, the legal issues before the court were many and varied. But the underlying facts, taken together, paint a vivid picture of Indiana's economy and society circa 1891 – the same year James Naismith invented basketball.

**Agriculture** was an economic mainstay, and even city residents maintained livestock. In *The Noblesville Gas and Improvement Co. v. Teter*, the court affirmed damages of \$60 against the company for the death of Teter's cow after it fell into an open gas line trench.

The opinion notes that by county and city ordinance, "cows were permitted to run at large within the city (of Noblesville) within the day time."

**Railroads** were frequent litigants. *Vols. 1, 2, and 3* record 34 railroad-related appeals, many involving damages to livestock. In a disputed-fare case from Greene County, the court ruled for the railroad but admonished the company "if unnecessary force was used in expelling the appellee from the train."

*Vol. 1* also includes two cases involving The Western Union Telegraph Co. One of them, *Western Union v. Trumbull*, cited an 1885 law that anticipates current legal and policy arguments about **Internet neutrality**.

The relevant passage of the law said that telegraph companies "shall in no manner discriminate in rates charged, or words or figures charged for, or manner or conditions of service between any of its patrons, but shall serve individuals, corporations and other telegraphic companies with impartiality."

Then as now, fraught **domestic relations** occupied a significant

share of the docket.

In *Story v. Story*, the court affirmed judgment against a father who'd been sued by his daughter for nonpayment of \$3 a week for house and farm work.

*Marshall et al v. Bell* involved a father's promissory note for support and maintenance of a "bastard child."

And in *Adams v. Main*, the court affirmed a trial court's judgment that the appellant had alienated the affections of the appellee's wife, even without proof of adultery. Such proof was not required, per the Appeals Court.

**Contract disputes** comprised a large part of the docket, too, and some describe prevailing wages and prices.

In *Greene v. McIntire et al*, the court affirmed judgment against New York City grain merchants who had contracted to buy 20,000 bushels of "grade No. 2 red wheat" from a Knox County farmer. Price: \$14,891, or 74 cents per bushel. (March 2014 wheat deliveries were trading at \$6.39/bushel at the Chicago Board of Trade in December 2013.)

*Orme v. Cooper*, a Floyd County case, reported the value of 571 pounds of harness leather as \$114.20, or 20 cents per pound.

Mr. Trumbull, the appellant in the *Western Union* case cited above, paid 25 cents for his telegram.

Another case put the value of a Warren County house, lot, furnishings, and various materials and repairs at \$531.85.

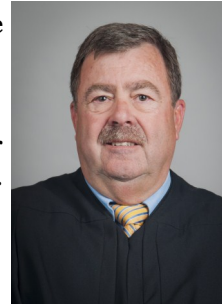
*Vols. 1, 2, and 3* include just **18 criminal appeals** (all others assigned to the Supreme Court), many involving crimes of vice such as gambling, liquor violations and prostitution (referred to in one case as "a certain house of ill fame" in Valparaiso).

The court affirmed the trial court's decision 13 times, or 72 percent.

## Today's Panel of Judges

### The Honorable Terry A. Crone (St. Joseph County)

**Terry A. Crone** was appointed to the Court of Appeals March 8, 2004 by Governor Joseph E. Kernan. Judge Crone was raised in South Bend. He graduated cum laude from DePauw University with a double major in political science and history in 1974 and graduated from Notre Dame Law School in 1977.



Judge Crone practiced law for nine years, concentrating in areas of civil practice, and served as the St. Joseph County Attorney from 1981 to 1986. In 1986, he was appointed Magistrate of the St. Joseph Circuit Court, where he served until his appointment as Judge of the St. Joseph Circuit Court in 1989.

Judge Crone is a past President of the St. Joseph County Bar Association and a former member of the Board of Managers of the Indiana Judges Association, the Supreme Court Committee on Character and Fitness, and the Alternative Dispute Resolution Committee of the Indiana Judicial Conference.

Judge Crone is a past Chair of the Appellate Practice Section of the Indiana State Bar Association and is a member of the St. Joseph County, Indianapolis, Marion County, Indiana State and American Bar Associations, the American Judicature Society, and the Phi Delta Phi Honorary Legal Society.

Judge Crone is a frequent speaker at legal education programs. He helped found a program in South Bend to familiarize minority high school students with the law and related fields and was a founding member of the South Bend Commission on the Status of African-American Males and the St. Joseph

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### The Honorable Margret G. Robb (Tippecanoe County)

**Margret G. Robb** was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O'Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as **Chief Judge**; the first woman to hold that position in the Court's more than 100 year history.



Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the

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### The Honorable Randall T. Shepard (Vanderburgh County)

**Randall T. Shepard** of Evansville was appointed to the Indiana Supreme Court by Governor Robert D. Orr in 1985 at the age of 38. He became Chief Justice of Indiana in March 1987 and served in that office until his retirement in March 2012.



He is now serving as a Senior Judge on the Court of Appeals, as a visiting scholar at the University of Cincinnati College of Law, as guest editor of Indiana Magazine of History, and on the board of directors of Justice at Stake, a national nonpartisan organization dedicated to fair, impartial courts.

A seventh generation Hoosier, Judge Shepard graduated from Princeton University *cum laude* in 1969 and from the Yale Law School in 1972. He earned a Master of Laws degree in the judicial process from the University of Virginia in 1995.

Judge Shepard was Judge of the Vanderburgh Superior Court from 1980 until his Supreme Court appointment. He earlier served as executive assistant to Mayor Russell Lloyd of Evansville and as special assistant to the Under Secretary of the U.S. Department of Transportation.

Judge Shepard has served as chair of the ABA Appellate Judges Conference and of the Section of Legal Education and Admissions to the Bar and as President of the National Conference of Chief Justices. United States Chief Justice John Roberts also appointed him to the U.S. Judicial Conference Advisory Committee on Civil Rules. He is a trustee emeritus of the National Trust for Historic Preservation and a former chair of Indiana Landmarks, Inc.

Judge Shepard also served as a co-

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